Court Decisions, Affecting the Negro – 1935

HERE IS THAT SUPREME COURT DECISION WHICH DASHED THE POLITICAL HOPE OF NEGROES

Supreme Court Of The United States

No. 563—October Term, 1934.

R. R. Grovey, Petitioner, vs. Albert Townsend. On Writ of Certiorari to the Justice Court, Precinct No. 1, Harris County, Texas.

(April 1, 1935)

Mr. Justice Roberts delivered the opinion of the Court.

The petitioner, by complaint filed in the Justice Court of Harris County, Texas, alleged that although he is a citizen of the United States and of the State and County, and a member of and believer in the tenets of the Democratic party, the respondent, the county clerk, a state officer, having as such only public functions to perform, refused him a ballot for a Democratic party primary election, because he is of the negro race. He demanded ten dollars damages. The pleading quotes articles of the Revised Civil Statutes of Texas which require the nomination of candidates at primary elections by any organized political party whose nominees received one hundred thousand votes or more at the preceeding general election, and recites that agreeably to these enactments a Democratic primary election was held on July 28, 1934, at which petitioner had the right to vote. Referring to statutes which regulate absentee voting at primary elections, the complaint states the petitioner expected to be absent from the county on the date of the primary election, and demanded of the respondent an absentee ballot, which was refused him in virtue of a resolution of the state resolution of May 24, 1932, restricting eligibility for membership in the

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Democratic convention of Texas, adopted May 24, 1932, which is:

"Be it resolved, that all white citizens of the State of Texas who are qualified to vote under the Constitution and laws of the state shall be eligible to membership in the Democratic party and as such entitled to participate in its deliberations."

The complaint charges that the respondent acted without legal excuse and his wrongful and unlawful acts constituted a violation of the Fourteenth and Fifteenth Amendments of the federal constitution.

A demurrer, assigning as reasons that the complaint was insufficient in law and stated no cause of action, was sustained; and a motion for a new trial, reasserting violation of the federal rights mentioned in the complaint, was overruled. We granted certiorari,[1] because of the importance of the federal question presented, which has not been determined by this court.[2] Our jurisdiction is clear, as the Justice Court is the highest state court in which a decision may be had,[3] and the validity of the constitution and statutes of the state was drawn in question on the ground of their being repugnant to the Constitution of the United States.[4]

The charge is that respondent, a state officer, in refusing to furnish petitioner a ballot, obeyed the law of Texas, and the consequent denial of petitioner's right to vote in the primary election because of his race and color was state action forbidden by the federal constitution; and it is claimed that former decisions require us so to hold. The cited cases are, however, not in point. In Nixon v. Herndon, 273 U. S. 536, a statute which enacted that "in no event shall a negro be eligible to participate in a Democratic party primary election held in the State of Texas," was pronounced offensive to the Fourteenth Amendment. In Nixon v. Condon, 286 U. S. 73, a statute was drawn in question which provided that "every political party in this State through its State Executive Committee shall have the power to prescribe the qualifications of its own members and shall in its own way determine who shall be qualified to vote or otherwise participate in such political party." We held this was a delegation of state power to the state executive committee and made its determination conclusive irrespective of any expression of the party's will by its convention, and therefore the committee's action barring negroes from the party primaries was state action prohibited by the Fourteenth Amendment. Here the qualifications of citizens to participate in party counsels and to vote at party primaries have been declared by the representatives of the party in convention assembled,

[1] 293 U. S.—.

[2] Rule 38, 5 (a).

[3] Downham v. Alexandria, 9 Wall. 659; Tinsley v. Anderson, 171 U. S. 101. Constitution of Texas, Article V, sections 3, 6, 8, 16 and 19. Revised Civil Statutes of Texas of 1925, Articles 1906-1911, 2385-2387, 2454, 2460. Galf, etc. R. Co. v. Rawlins, 80 Texas 579; Hudson v. Smith, 133 S. W. 486; Arrington v. People's Supply Co., 52 S. W. (2d) 676.

[4] U. S. C. Tit. 28, Sec. 344 (b).

and this action upon its face is not state action. The question whether under the constitution and laws of Texas such a declaration as to party membership amounts to state action was expressly reserved in Nixon v. Condon, supra, pp. 84-85. Petitioner insists that for various reasons the resolution of the state convention limiting membership in the Democratic party in Texas to white voters does not relieve the exclusion of negroes from participation in Democratic primary elections of its true nature as the act of the state.

First. An argument pressed upon us in Nixon v. Condon, supra, which we found it unnecessary to consider, is again presented. It is that the primary election was held under statutory compulsion; is wholly statutory in origin and incidents; those charged with its management have been deprived by statute and judicial decision of all power to establish qualifications for participation therein inconsistent with those laid down by the laws of the state, save only that the managers of such elections have been given the power to deny negroes the vote. It is further urged that while the election is designated that of the Democratic party, the statutes not only require this method of selecting party nominees, but define the powers and duties of the party's represenatives and of those who are to conduct the election so completely, and make them so thoroughly officers of the state, that any action taken by them in connection with the qualifications of members of the party is in fact state action and not party action.

In support of this view petitioner refers to Title 50 of the Revised Civil Statutes of Texas of 1925,[5] which by Article 2930 requires that any party whose members cast more than one hundred thousand ballots at the previous election, shall nominate candidates through primaries, and fixes the date at which they are to be held; by Article 2939 requires primary election officials to be qualified voters; by Article 2955 declares the same qualifications for voting in such an election as in the general elections; by Article 2956 permits absentee voting as in a general election; by Article 2978 requires that only an official specifies the form of ballot and how it shall be marked, as other sections do for general elections; by Article 2984 fixes the number of ballots to

[5] Vernon's Annotated Revised Civil and Criminal Statutes, Vol. 9, p. 3ff; Id., January 1935 Cumulative Supplement, pp. 117, 118.

be provided, as another article does for general elections; by Articles 2986, 2987 and 2990 permits the use of voting booths, guard rails, and ballot boxes which by other statutes are provided for general elections; by Articles 2998 and 3104 requires the officials of primary elections to take the same oath as officials at the general elections; by Article 3002 defines the powers of judges at primary elections; by Articles 3003-3025 provides elaborately for the purity of the ballot box; by Article 3028 commands that the sealed ballot boxes be delivered to the county clerk after the election, as is provided by another article for the general election; and by Article 3041 confers jurisdiction of election contests upon district courts, as is done by another article with respect to general

elections. A perusal of these provisions so it is said, will convince that the state has prescribed and regulated party primaries as fully as general elections, and has made those who manage the primaries state officers subject to state direction and control.

While it is true that Texas has by its laws elaborately provided for the expression of party preference as to nominees, has required that preference to be expressed in a certain form of voting, and has attempted in minute detail to protect the suffrage of the members of the organization against fraud, it is equally true that the primary is a party primary; the expenses of it are not borne by the state, but by members of the party seeking nomination (Arts. 3108; 3116); the ballots are furnished not by the state, but by the agencies of the party (Arts. 3109; 3119); the votes are counted and the returns made by instrumentalities created by the party (Arts. 3123; 3124-5; 3127); and the state recognizes the state convention as the organ of the party for the declaration of principles and the formulation of policies (Arts. 3136; 3139).

We are told that in Love v. Wilcox, 119 Texas 256, the Supreme Court of Texas held the state was within its province in prohibiting a party from establishing past party affiliations or membership in non-political organizations as qualifications or tests for participation in primary elections, and in consequence issued its writ of mandamus against the members of the state executive committee of the Democratic party on the ground that they were public functionaries fulfilling duties imposed on them by law. But in that case it was said (p. 272):

"We are not called upon to determine whether a political party has power, beyond statutory control, to prescribe what persons shall participate as voters or candidates in its conventions or primaries. We have no such state of facts before us."

After referring to Article 3107, which limits the power of the state executive committee of a party to determine who shall be qualified to vote at primary elections, the court said:

"The Committee's discretionary power is further restricted by the statute directing that a single uniform pledge be required of the primary participants. The effect of the statutes is to decline to give recognition to the lodgment of power in a State Executive Committee, to be exercised at its discretion."

Although it did not pass upon the constitutionality of Section 3107, as we did in Nixon v. Condon, supra, the Court thus recognized the fact

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upon which our decision turned, that the effort was to vest in the state executive committee the power to bind the party by its decision as to who might be admitted to membership.

In Bell v. Hill, 74 S. W. (2d) 113, the same court, in a mandamus proceeding instituted after the adoption by the state convention of the Democratic party to white persons, held the resolution valid and effective. After a full consideration of the nature of political parties in the United States, the court concluded that such parties in the state of Texas arise from the exercise of concurree will and liberty of the citizens composing them; that they are voluntary associations for political action and are not the creatures of the state, and further decided that Sections 2 and 27 of Article 1 of the State Constitution guaranteed to citizens the liberty of forming political associations, and the only limitation upon this right to be found in that instrument is the clause which requires the maintenance of a republican form of government. The statutes regulating the nomination of candidates by primaries were related by the court to the police power, but were held not to extend to the denial of the right of citizens to form a political pary and to determine who might associate with them as members thereof. The court declared that a proper view of the election laws of Texas, and their history, required the conclusion that the Democratic party in that state is a voluntary political association and, by its representatives assembled in convention, has the power to determine who shall be eligible for membership and, as such, eligible to participate in the party's primaries.

We cannot, as petitioner urges, give weight to earlier expressions of the state courts said to be inconsistent with this declaration of the law. The Supreme Court of the state has decided, in a case definitely involving the point, that the legislature of Texas has not essayed to interfere, and indeed may not interfere, with the constitutional liberty of citizens to organize a party and to determine the qualifications of its members. If in the past the legislature has attempted to infringe that right and such infringement has not been gainsaid by the courts, the fact constitutes no reason for our disregarding the considered decision of the state's highest court. The legislature assembly of the state, so far as we are advised, has never attempted to prescribe or to limit the membership of a political party, and it is now settled that it has no power so to do. The state, as its highest tribunal holds, though it has guaranteed the liberty to organize political parties, may legislate for their governance when formed and for the method whereby they may nominate candidates, but must do so with full recognition of the right of the party to exist, to define its membership, and to adopt such policies as to it shall seem wise. In the light of the principles announced, we are unable to characterize the managers of the primary election as state officers in such sense that any action taken by them in obedience to the mandate of the state convention respecting eligibility to participate in the organization's deliberations, is state action. . . . .

Second. We are told that Sections 2 and 27 of the Bill of Rights of the Constitution of Texas as construed in Bell v. Hill, supra, violate the federal Constitution, for the reason that so construed they fail to forbid a classification based upon race and color, whereas in Love v. Wilcox, supra, they were not held to forbid classifications based upon party affiliations and membership or non-membership in organizations other than political parties, which classifications were by Article 3107 of Revised Civil Statutes, 1925, prohibited. But, as above said, in Love v. Wilcox the court did not construe or apply any constitutional provision and expressly reserved the question as to the power of a party in convention assembled to specify the qualifications for membership therein.

Third. An alternative contention of petitioner is that the state Democratic convention which adopted the resolution here involved was a mere creature of the state and could not lawfully do what the federal Constitution prohibits to its creator. The argument is based upon the fact that Article 3167 of the Revised Civil Statutes of Texas, 1925, requires a political party desiring to elect delegates to a national convention, to hold a state convention on the fourth Tuesday of May, 1928, and every four years thereafter; and provides for the election of delegates to that convention at primary conventions, the procedure of which is regulated by law. In Bell v. Hill, supra, the Supreme Court of Texas held that Article 3167 does not prohibit declarations of policy by a state Democratic convention called for the purpose of electing delegates to a national convention. While it may be, as petitioner contends, that we are not bound by the state court's decision on the point, it is entitled to the highest respect, and petitioner points to nothing which in any wise impugns its accuracy. If, as seems to be conceded, the Democratic party in Texas held conventions many years before the adoption of Article 3167, nothing is shown to indicate that the regulation of the method of choosing delegates or fixing the times of their meetings, was intended to take away the plenary power of conventions in respect of matters as to which they would normally announce the party's will. Compare Nixon v. Condon, supra, 84. We are not prepared to hold that in Texas the state convention of a party has become a mere instrumentality or agency for expressing the voice or will of the state.

Fourth. The complaint states that candidates for the offices of Senator and Representative in Congress were to be nominated at the primary election of July 9, 1934, and that in Texas nomination by the Democratic party is equivalent to election. These facts (the truth of which the demurrer assumes) the petitioner insists, without more, make out a forbidden discrimination. A similar situation may exist in other states where one or another party includes a great majority of the qualified electors. The argument is that as a negro may not be denied a ballot at a general election on account of his race or color, if exclusion from the primary renders his vote at the general election insignificant and useless, the result is to deny him the suffrage altogether. So to say is to confuse the privilege of membership in a party with the right to vote for one who is to hold a public office. With the former the state need have no concern, with the latter it is bound to concern itself, for the general election is a function of the state government and discrimination by the state as respects participation by negroes on account of their race or color is prohibited by the federal constitution.

Fifth. The complaint charges that the Democratic party has never declared a purpose to exclude negroes. The premise upon which this conclusion rests is that the party is not a state body but a national organization, whose representative is the national Democratic convention. No such convention, so it is said, has resolved to exclude negroes from membership. We have no occasion to determine the correctness of the position, since even if true it does not tend to prove that the petitioner was discriminated against or denied any right to vote by the State of Texas. Indeed the contention contradicts any such conclusion, for it comes merely that a state convention, the representative and agent of a state association, has usurped the rightful authority of a national convention which represents a larger and superior country-wide association.

We find no ground for holding that the respondent has in obedience to the mandate of the law of Texas discriminated against the petitioner or denied him any right guaranteed by the Fourteenth and Fifteenth Amendments.

Judgment affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.

Court Decisions, Affecting the Negro - 1935

Roanoke, Va., World News
April 4, 1935

TWO NEGRO RULINGS.

Colored people won one and lost one in the list of decisions handed down by the United States Supreme Court this week. In the Scottsboro case, the right of Negroes to serve on juries was again upheld, one of a long line of decisions in that respect. In a Texas case, Negroes lost their right to vote in Democratic primaries when the court held that any party may make its own rules as to its own membership.

The sordid Scottsboro case has dragged its way through the courts for years. But for the racial angle and the intervention of a New York organization, it would have attracted little attention. A group of Negro boys, bumming their way in empty coal cars on an Alabama railroad, met two white women, also bumming their way. Later the girls charged the boys with attacking them. One of the girls has since changed her testimony. Anywhere but in the deep South, the whole party would have been jailed as vagrants. But with racial animosities aroused, with candidates for Alabama offices making political capital of the case, one conviction has followed another as fast as the higher courts could set them aside.

This week's opinion, read by Chief Justice Hughes, and concurred in by the whole court, held that a court proceeding is invalid if Negroes are designedly barred from jury service. The question was whether the absence of Negroes from the jury rolls in the Alabama case was the result of systematic exclusion. For the Supreme Court of Alabama had held that this exclusion was not discriminatory. Justice Hughes said: "We think the evidence that no Negro has been called for jury service in Jackson county for a generation establishes there had been discrimination."

The ruling as to eligibility does not require the actual presence of Negroes on juries. A recent murder trial in Richmond is illustrative, for while there were several Negroes on the panel, counsel for defense of an accused Negro struck them off, preferring trial by an all white jury.

The Scottsboro case has been sufficiently bedeviled by outside influences, including the intervention of radical organizations, the charge of Communism, which seemed rather far fetched—the charge that witnesses had been bought, and the general resentment of Southern communities at outside interference in their judicial processes. If Alabama had been convinced as to the real guilt of these Negroes, the case would not have been allowed to drag for years in the courts. At this distance, it seems more of a political than a judicial issue.

The Baltimore Sun comments:

"By his extraordinary pertinacity in error Attorney-General Knight has thus far succeeded in advertising the dubious circumstances of the original conviction and made it necessary for Alabama to admit Negroes to jury rolls unless she wants every case to go to the Federal courts on the ground that they have been excluded. These accomplishments seems a little meager even with a view to hanging seven men who were convicted on dubious evidence, fifty per cent of which has been repudiated voluntarily, and which impressed the Alabama trial judge as scandalous perjury. Alabama, one would suppose, must be getting pretty tired of the whole business, including Mr. Knight."

The Texas decision is of more far-reaching importance, as it clarifies a former ruling of the Supreme Court as to participation in primary elections. Heretofore the courts have held that where a party committee acts as agent of the State, it cannot make racial or other discriminations. United States District Judge D. Lawrence Groner some years ago held in a Virginia case that the Democratic party in Virginia could not bar Negroes from legalized primaries. Judge Vernon C. Spratley, of Hampton, has made a somewhat similar ruling in a State court.

Now the United States Supreme Court holds in the Texas primary case that a political party is a voluntary association, and that it has the right to determine for itself who are its own members. The State offers its services to hold a primary for any political party, but may then depend on that party to decide for itself who are its members. A party, the final court says, may limit and confine its membership by any regulation it may desire to accept. It is not entirely clear whether in Texas parties hold their own primaries at their own expense, or whether, as in Virginia, they are held for them by the State.

If the act passed by the last Legislature, offered by Delegate Scott, of Roanoke, means what it says, 100 voters may petition for a primary by any party, thus putting it in the hands of a small group to require not only a Democratic but a Republican and perhaps a Socialist and other minority party primary. If we are to have an era of not one but numerous party primaries, held on the same day, and at the same polling places, it becomes increasingly important that the party authorities may have the right to say who are their own members. That right the Supreme Court seems fully to have upheld.

In Roanoke, party lines have for years been ignored, known Republicans having been admitted without challenge to Democratic primaries. In a recent Democratic primary a considerable number of Negro voters who might have been challenged at the polls were voted by mail.

Chattanooga, Tenn. News
April 2, 1935

Far-Reaching Decisions

TWO important decisions yesterday by the United States Supreme Court have far-reaching possibilities in their effect on racial relations in the South? In one decision, the right of Negroes to serve on juries is upheld, while in another, a Texas primary law, which prohibits Negroes from participating in a Democratic Primary election is held valid.

On the ground that their trial was not fair, because Negroes were excluded from the jury, Chief Justice Hughes has set aside the death sentence for two of the Scottsboro defendants. A new trial has been ordered. Once before the Supreme Court ordered a new trial for the same two defendants, who contended that they had been illegally deprived of counsel at their first trial.

In the second trial, the Negroes again were found guilty and sentenced to death. The Supreme Court now orders a third trial.

Justice Hughes' decision may have a far reaching effect. On the face of it, perhaps, it indicates that Negroes may be given the right to serve on juries in the South when members of their own race are on trial. At the same time, there are difficulties. Judge Charles W. Lusk, of Criminal Court in this city, can testify as to what happens when Negroes are placed on juries. He had a Negro juror in his court, and a whispering campaign which was started against the judge threatened, for a time, to cause his removal from the bench.

"It appeared that no Negro had served on any grand jury or petit jury in that (Jackson) County within the memory of witnesses who had lived there all their lives," Justice Hughes said.

After noting there were a large number of Negroes qualified for jury service in that county and that there was evidence the jury rolls had been tampered with and Negroes' names superimposed, the Chief Justice said:

"For this long-continued unvarying and wholesale exclusion of Negroes from jury service,, we find no justification consistent with the constitutional mandate."

The decision went much farther than previous decisions along this line because the State law itself does not discriminate against the race. The discrimination, the Court found, was at the hands of local officers.

Some far-seeing citizens have long urged that Negro juries be permitted to serve when Negroes are on trial. Negro leaders say that white jurors are indifferent when trying Negroes, especially in murder cases. The white juries are likely merely to let the defendant off with a prison sentence. Negro juries would mete out a sterner brand of justice.

The Texas decision barring Negroes from participating in Democratic primaries appeared to have given Southern States a means of legally disfranchising the race—since the Democratic nominees almost invariably are elected.

Several years ago the Court set aside State Constitutional provisions barring Negroes from the primaries. The State responded with legislation giving the Democratic State Committee the right to establish the qualifications of voters in the party.

The statute, together with the Committee's ruling that party voters must be white, also was held invalid by the Court. The question then came before the State party convention, where it was voted to bar Negroes from the party.

This method the Supreme Court held valid in a case brought on appeal from the Texas courts by R. R. Grovey, 44 - year - old Harris County Negro, who was refused a ballot in the July, 1934, primary.

The Supreme Court decision said "we hold the party was a voluntary association and was competent to decide its membership." The Court held, however, that the State could not deny a Negro the right to vote in a general election because of his race.

It will be interesting to see the effect of these two decisions. Sensible people will be disposed to say that Justice Hughes is right concerning juries. Hot heads will differ. But we believe that Negro juries would help keep down crime by punishing Negro criminals.

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Supreme Court Blesses and Damns

By WILLIAM PICKENS

And the damnation in the Texas primary case outweighs the blessing of the Scottsboro decision. When the court decided that political parties are mere private voluntary associations and may exclude any citizen with impunity, that was a definite and age-long loss to all the colored people of the south, and nine millions of them; while the decision that the Scottsboro boys did not have a legal trial in Alabama is only an indefinite gain to nine Negroes, with strings tied to it.

Do not let us turn into shouting, applauding idiots and deceive ourselves, of political freedom of action independent of racial lines. If Negroes could vote in the elections of the south, where Democratic elections are the only elections, they would put themselves not only on juries, but into legislatures finally, and on judges' benches,—and defend their still more fundamental rights to economic opportunity.

Political Rights Needed

Listen: without full political rights, without equal rights to use the power of the ballot, the minority cannot be saved by a mere regulation that they must not be barred from membership on juries when their cases are being tried. Why? Because those who vote and rule can easily alter the jury matter so as to make minority representation on juries practically non-effective. Grand juries now require only a majority vote to indict, and the white rulers of the south can easily alter the laws so that only a majority or a three-fourths vote will be necessary on trial juries to convict.

Then they can put one, two or three Negroes on these juries, and meet the requirements of the Supreme court, and still have their absolute way with the non-voting Negro population which remains without influence on the making of law and the election of state officers. But, mind you, this Supreme court decision, in the Scottsboro cases does not go even that far: it does not guarantee Negro membership on any juries.

It seems to mean only that Negroes should sometimes, appear on the venire lists, on the jury panels,—or that they should not be systematically barred from jury rights on the ground that no Negro is competent or qualified. All this decision really accomplishes, is that it makes it necessary for the south to alter its technique of barring Negroes from participation in self-government.

South Left Free

And the party primaries decision leaves the south free to alter its technique without effective interference from Negro citizens. The court simply makes it unlawful to bar the Negro in the raw, obvious fashion in which it was done in these Alabama cases,—and for generations in all the south.

That jury decision will do the Negro race no harm (may even do the nine defendants some good), but that jury decision is far less saving than that primary decision is damning to the Negro race. If we did not know the great court to be above such motives, it would look to us as if they had made a trade,—giving the nine million Negroes a kick downwards, as an apology to the race's enemies for favoring the nine Scottsboro boys with another precarious chance for their lives.

We say *precarious*, because the fate of the boys is still left squarely in the hands of Alabama,—and, since the Negro is ruled out of all political influence, that means in the hands of Alabama whites. They can make new juries, include some Negroes, hand-picked or corrupted Negroes,—and those defendants will fare as badly as before.

Boys Not Free Yet

The end is not yet,—not until those boys are freed. We do not belong to that race of idiotic "optimists," who are like the fellow that was falling off a 20-story building: as he was falling past the 10th story, feeling himself still unhurt, he said: "Well, everything is all right so far, and I'm half way,—so I see nothing to worry about."

We must look ahead; this thing is not done yet. And that decision against the Negro's freedom to participate in the only effective elections in the south, leaves his oppressors and enemies secure and in the saddle.

And let white citizens take notice: for that decision also makes it possible for some temporary majority, or some dictator, to disfranchise all the opposition by ruling any persons, white or black, out of their party primaries,—wherein the real electing may be done.

Contradictory Court Decisions

THE United States Supreme Court has just ruled that the two Scottsboro case defendants under sentence of death were illegally deprived of their constitutional rights when tried and convicted because Alabama has systematically excluded members of their race from jury duty.

On the same day the Court, from whose decisions there is no appeal, ruled that the Texas Democratic party, excluding Negroes from participation in its primaries, under a rule adopted by the State Convention, does not deprive members of the race thus excluded of their constitutional rights, so long as the party pays for the primary out of its own pocket.

The Court appears in a contradictory role. It is known that there are no laws in Alabama, or in any other southern state, under which Negroes are excluded from jury service. It is done by indirection, by subterfuges and circumventions of the established law. The Supreme Court knew that the exclusion had been accomplished within the constitution, but following the common sense doctrine ruled that "the evidence that no Negro has been called for jury service in Jackson county for a generation established there had been discrimination."

Still, the Supreme Court, in its Texas primary ruling, sanctioned a subterfuge which will effectively disfranchise Negroes in so far as the real meaning of the exercise of the suffrage is concerned. Certainly, so far as Texas is involved.

The "Nine Old Gentlemen," as they have been frequently referred to lately, who compose the Supreme Court, are probably just as much aware that the primary in the South is just as much an evolution or refinement of the reconstruction methods of keeping Negroes from exercising the right of suffrage, as are the circumventions employed to keep them from the jury box. Three times already the Court has turned thumbs down on Texas primary procedures. Finally the Texans invented a device, openly intended to accomplish their original purpose, upon which the Court bestows its sanction. Probably the "Nine Old Gentlemen" had no discretion in the matter. Which may account for the remark of Assistant Attorney General BARRY of Tennessee, that he did not think the Court's verdict in the Scottsboro cases "will have any influence whatsoever in the South except probably on a retrial of those cases."

Just as truly as night follows day; unless qualified Negroes in the South are protected by the United States Supreme Court in their constitutional rights bearing upon the exercise of the suffrage, the Court's decision, as momentous as it is, on the constitutional right to jury service will be of no avail whatsoever, except in localities where public sentiment is favorable to it.

* * * *

THE Democratic party in Texas has, by its Supreme Court victory, established a nice question for the half million Negro voters of the North and West to ponder when the next Presidential election comes around. Of course, the Democrats in Texas do not care a hoot how the Negroes in New Jersey, New York, Pennsylvania, Illinois and Indiana cast their votes, but there are quite a few Democratic United States Senators and Congressmen, as well as Governors, in those states, who owe their elections, by narrow margins, to Negro voters who went over to the Democratic party in the last elections.

Sectional lines will always control the policy of the Democratic party, as these geographical considerations have controlled the Republican party in recent years, and it is uncertain, to say the least, that northern party influence will ever be exerted upon the southern Democrats' political repression of the Negro.

Likewise it is doubtful if northern Negro Democrats, who are free in the exercise of the suffrage, and who are able to send a man to Congress, as they did in Illinois, and to state legislatures, as they did in New Jersey, Pennsylvania and New York, will lose any sleep over the political misfortunes of their orphaned brethren in the South.

Yet the uncertainties of political tides suggest a policy of legal political preparedness on the part of Negroes in the South, rather than resignation to the apparent defeat which the Supreme Court decision spells. There will continue to be close and hotly contested skirmishes even in "white primaries" in those states that follow the Texas lead. And there will come times when the votes of qualified Negroes will be needed, and may be sought, to swing

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THE "MONTGOMERY ADVERTISER"

An editorial appeared in the "Montgomery Advertiser," April 2, attempting to chastise the Supreme Court of the nation for its refusal to accept and sustain a corrupt verdict which came up to that court from the criminal court in Alabama and having to do with the now notorious Scottsboro case.

The "Advertiser," one of the chief spokesmen for a decaying past, appeared to be all by local leaders men for a decaying past, appeared to be all political acumen heated up because the Supreme Court refused ng a fight based to sanction the legal lynching of the Scotts- nicalities. It is boro boys. The only justification for com- nvent the "Nine menting upon the editorial at all is to give Supreme Court. the civilized portion of the world a glimpse of

Democratic "white primaries." The w for Negroes in such Southern States is their qualifications for voting, and to general elections, bar them. For the Supreme Court of the nation for its re- s thickest, comes fusal to accept and sustain a corrupt verdict which came up to that court from the criminal has appeared to court in Alabama and having to do with the that the achieve- participation in now notorious Scottsboro case. to a purely local

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Supreme Court Blesses and Damns

By WILLIAM PICKENS

And the damnation in the Texas primary case but that jury decision is damning to the Negro race. If for outweighs the blessing of the Scottsboro decision primary decision we did not know the great court to be above such When the court decided that political parties are motives, it would look to us as if they had made mere voluntary associations and may exa trade,—giving the nine million Negroes a kick ju clude any citizen with impunity, that was a definitedownwards, as an apology to the race's enemies for tive and age long loss to all the colored people of the favoring the nine Scottsboro boys with another pre- South, and nine millions of them, while the decision various chance for their lives. that the Scottsboro boys did not have a legal trial is still left squarely in the hands of Alabama,— in Alabama is only an indefinite gain to nine Ne- and, since the Negro is ruled out of all political fr groes, with strings tied to it influence, that means in the hands of Alabama p Do not let us turn into shouting, applauding whites. They can make new juries, include some suffrage, as are the circumventions employed to keep of keeping Negroes from exercising the right of idiots and deceive ourselves, of political freedom Negroes, hand-picked or corrupted Negroes,—and of action independent of racial lines. If Negroes those defendants will fare as badly as before. could vote in the elections of the south, where Demo- them from the jury box. Three times already the cratic elections are the only elections, they would Court has turned thumbs down on Texas primary "op- procedures. Finally the Texans invented a device, out themselves not only on juries, but into legis- "Nine Old Gentlemen," as they have been latures finally, and on judges' benches,—and de- The "Nine Old Gentlemen" had no dis- fend their opportunity.

Political Rights Needed

Listen: without full political rights, without way,—so I see nothing to worry about." equal rights to use the power of the ballot, the We must look ahead; this thing is not done yet minority cannot be saved by a mere regulation that And that decision against the Negro's freedom t they must not be barred from membership on juries participate in the only effective elections in th when their cases are being tried. Why? Because south, leaves his oppressors and enemies secur when their cases are being tried. Why? Because south, leaves his oppressors and enemies secur those who vote and rule can easily alter the jury and in the saddle. matter so as to make minority representation on And let white citizens take notice: for tha juries practically non-effective. Grand juries now decision also makes it possible for some temporar require only a majority vote to indict, and the majority, or some dictator, to disfranchise all th white rulers of the south can easily alter the laws opposition by ruling any persons, white or blac so that only a majority or a three-fourths vote will put of their party primaries,—wherein the re- be necessary on trial juries to convict. selecting may be done.

Then they can put one, two or three Negroes

Then these juries, and meet the requirements of the

on these juries, and still have their absolute wa

Supreme court, and still have which re

with the non-voting Negro population of law an

mains without influence on the making of

the election of state officers. But, mind you, this sentence of death were illegally deprived of th

Supreme court decision, in the Scottsboro cases constitutional rights when tried and convicted

does not go even that far: it does not guarantee cause Alabama has systematically excluded m

Negro membership on any juries. On the same day the Court, from whose

It seems to mean only that Negroes should bers of their race from jury duty.

sometimes, appear on the venire lists, on the jur cisions there is no appeal, ruled that the T

panels,—or that they should not be systematically Democratic party, excluding Negroes from pa

jarred from jury rights on the ground that no Ne- primary, under a rule adopted b

gro is competent or qualified. All this decisio pation in its primaries, under a rule adopted by

really accomplishes, is that it makes it necessary ers of the Democratic party in the last elections.

for the south to alter its technique of barring Ne- State Convention, does not deprive members o

yroes from participation in self-government. race thus excluded of their constitutional r

South Left Free

And the party primaries decision leaves the so long as the party pays for the primary out

south free to alter its technique without effective recent years, and it is uncertain, to say the least,

interference from Negro citizens. The court simply is known that there are no laws in Alabama,

makes it unlawful to bar the Negro in the raw, ob- any other southern state, under which Negroes are

Likewise it is doubtful if northern Negro Democrats, who are free in the exercise of the suffrage, and who are able to send a man to Congress, as they did in Illinois, and to state legislatures, as they did in New Jersey, Pennsylvania and New York, will lose any sleep over the political misfortunes of their orphaned brethren in the South.

Yet the uncertainties of political tides suggest a policy of legal political preparedness on the part of Negroes in the South, rather than resignation to the apparent defeat which the Supreme Court decision spells. There will continue to be close and hotly contested skirmishes even in "white primaries" in those states that follow the Texas lead. And there will come times when the votes of qualified Negroes will be needed, and may be sought, to swing

Political Rights Not Sought

Sentiment is favorable to it.

* * * *

THE Democratic party in Texas has, by its Supreme Court victory, established a nice question of their political rights under the half million Negro voters of the North and comes around. Of course, the Negroes in New Jersey, Pennsylvania, Illinois and Indiana cast their votes, but there are quite a few Democratic New York, Senators and Congressmen, as well as Governors, in those states, who owe their election, by narrow margins, to Negro voters who went over to the Democratic party in the last elections. Sectional lines will always control the policy of the Democratic party, as these geographical considerations have controlled the Republican party in

Contradictory Court Decisions

THE United States Supreme Court has just ru that the two Scottsboro case defendants un illegally deprived of th were illegally and convicted

Boys Not Free Yet

The end is not yet,—not until those boys are of idiotic "op- Court has turned thumbs down on Texas primary Democratic "white primaries." The wiser course for Negroes in such Southern States is to maintain their qualifications for voting, and to participate in larger and larger numbers in general elections, from which no party decree can bar them. For the call to battle, when the fight is thickest, comes first to soldiers who are prepared.

In the South, it looks now, as it has appeared to this newspaper for several years, that the achievement upon the part of Negroes of participation in governmental affairs reduces itself to a purely local problem, that must be worked out by local leaders who are endowed with sufficient political acumen to gain the objective without staging a fight based upon color and constitutional technicalities. It is too easy for the opposition to circumvent the "Nine Old Gentlemen" who sit upon the Supreme Court.

THE "MONTGOMERY ADVERTISER"

An editorial appeared in the "Montgomery Advertiser," April 2, attempting to chastise the Supreme Court of the nation for its refusal to accept and sustain a corrupt verdict which came up to that court from the criminal court in Alabama and having to do with the now notorious Scottsboro case.

The "Advertiser," one of the chief spokesmen for a decaying past, appeared to be all heated up because the Supreme Court refused to sanction the legal lynching of the Scottsboro boys. The only justification for commenting upon the editorial at all is to give the civilized portion of the world a glimpse of

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the workings and mental conception of a newspaper whose duty it is to properly inform its reading public of all of the facts without regard to whom they affect.

In discussing this editorial it must be borne in mind that it came from a source which was, for two hundred and fifty years, subjected to a tradition calculated at best to distort the proper sense of fair and impartial reasoning. The editorial said in part, "The Supreme Court of the United States tells Alabama, in effect, that it is not primarily interested in otherwise credible evidence demonstrating human depravity, but that it is primarily interested in the academic political 'rights' of a politically dispossessed race."

In this quotation alone can be observed the peculiar workings of a deranged mind still shadowed by the brutalizing effects of slavery, hate and prejudice. When the editor refers to the "otherwise credible evidence," it might be of interest to inform him that the Supreme Court of the nation failed to find that particular thing which he referred to as "otherwise credible evidence."

From the attitude and, in fact, the decision of the Supreme Court there appeared to have been no disposition upon the part of the judges of that august body to elevate to the point of decency any of that "otherwise credible evidence" to which the editor of the "Advertiser" refers.

The distinguished champion of Alabama chivalry in another part of his editorial referred to the Scottsboro boys as gorillas, using the following language, "Either these gorillas committed rape, or they did not, if they did not commit rape we believe that the jury would have said so." The editor of the "Advertiser" at all times appears to be in his proper element. His reference to gorillas bears out the statement.

The language used by him to express his opinion shows that in mind he is just a few degrees elevated above the gorilla and he would probably be surprised to know that all gorillas are not black. Since a white frog has already been discovered, the honor may yet be conceded Alabama—the discovery of a white gorilla.

Court Decisions, Affecting the Negro- 1935

BOSTON, MASS.
MORNING GLOBE

APR 10 1935

Supreme Court on Negroes

By Henry W. Harris

COLORED people can be kept from voting in Democratic primaries without violating the Constitution of the United States, but they cannot be prevented from serving on juries, according to decisions handed down last week by the Supreme Court of the United States.

The justices held in substance that the Democratic party of Texas is a private club, which has the right to exclude Negroes from voting in its primaries. As the Democratic nomination means election in the State the court has in effect nullified the 15th Amendment to the Constitution, which forbids discrimination in qualifying voters.

In the famous Scottsboro case, however, the court overturned the trial of two colored boys facing execution in Alabama because members of their race have been systematically excluded from sitting on juries. It was the raising of the jury issue in the case of a colored man a few years ago which caused Southern Congressmen to agitate for the impeachment of the late Judge James A. Lowell of the United States District Court in Boston. The agitation broke down and the effect of the affair was to cause many of the border States, as well as Virginia and Kentucky, to permit colored citizens to sit as jurymen.

* * *

The 13th, 14th and 15th Amendments to the United States Constitution, passed at the close of the Civil War, form the colored man's bill of rights. The first of these does away with slavery or any of its substitutes, the second establishes his rights as a citizen and the third as a voter. Their interpretation by the United States Supreme Court has established just what discriminations against the colored man are constitutional.

No State can impose any of the substitutes for slavery, through "peonage," "apprenticeship" or "contract labor laws."

No State can exclude the colored man from sitting on either grand or petit juries.

No State or city can enforce laws segregating negroes into districts.

At the same time, "Jim Crow" laws are constitutional if the railroads give equal accommodations to both white and colored travelers. If they provide separate dining and sleeping cars for whites they must do the same for negroes.

And no State can bar the colored citizens from voting in elections, though a way has now been found which permits them to do so in Democratic primaries.

A State can compel the segregation of white and colored children in private, and probably in public schools.

* * *

The 13th Amendment does away with "slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted." The words "involuntary servitude" are not a mere redundancy, but refer to slavery substitutes in force in Mexico and the West Indies.

In Latin-American countries, employes have long been peons, unable to leave their masters while they owe them money. By this method it has been possible to keep ignorant employes in a state of continuous obligation which amounted to debtor slavery. In the West Indies colored boys have been contracted to employers in long periods of "apprenticeship," which amounted to slavery.

At the close of the Civil War, the Southern States passed laws which looked very much like efforts to reenslave the Negroes. These, according to James Ford Rhodes, historian of the period, were not passed in any spirit of defiance, but in accordance with the traditions of those States. Nevertheless, "the apprentice, vagrant and contract labor laws bore harshly on numbers of colored men and in some States tended to a system of peonage."

These measures roused feeling above the Mason-Dixon line and had a great deal to do with enabling the radicals in Congress to impose military and carpetbag administrations during the reconstruction period. Since that time the Supreme Court has handled a number of "peonage" cases from Southern States, chiefly Alabama. The most important opinion on this issue was delivered by Charles Evans Hughes, then an associate justice of the court, in 1911.

* * *

Under an Alabama law, anyone who gained a loan for service with intent to defraud, and gave a written contract, would be punished as if he had committed larceny, if he left the employer's service before the loan was repaid. The fact that he left the employer's service was prima facie evidence of his intent to defraud.

One Lonzo Bailey received a loan of $15 from an employer and gave him a contract to work for a year at $12 a month. After a brief time, he left his employer, and was haled into court. In accordance with the act, he was fined twice his loan, $30, half of which went to his employer. As he could not pay the fine, he was sentenced to labor in jail 136 days.

The Supreme Court overturned his conviction on the ground of peonage. "A peon is one who is compelled to work for his creditor until his debt is paid." It described the Alabama law as "a convenient instrument for the coercion which the Constitution and act of Congress forbid." Curiously enough, the late Justice Holmes, Union veteran and father of "liberalism" on the court, dissented. He held that Baily might easily be guilty of receiving money under false pretences, and added that his sentence required him to work for the State, not for his employer.

* * *

The 14th Amendment establishes as citizens "all persons born or naturalized in the United States and subject to the jurisdiction thereof. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law, nor deny any person within its jurisdiction the equal protection of the laws."

Just what "due process of law" means has furnished argument ever since. The United States Courts will not step in to void State trials if they possibly can help it. Only once did they stop an execution on the ground that the jury had been intimidated. In an Arkansas race riot, a white man was killed in 1919, and five colored men were found guilty at a trial which took 45 minutes, while a mob howled for blood outside. Affidavits were presented that "no juryman could have voted for an acquittal and continued to live in Phillips County." Justice Holmes, in delivering the opinion of the court, said that the United States has a right to step in when "counsel, jury and judge were swept to the fatal end by an irresistible wave of public passion."

* * *

Section II of the 14th Amendment and the 15th Amendment attempted to give the colored man a right to vote. The first would reduce the representation in Congress of any State which discriminates against the Negro voter. This provision has never been enforced. A force bill, indorsed by Henry Cabot Lodge, passed the National House of Representatives in 1890 by one vote, but failed of enactment. It provided for the supervision by United States marshals over all elections.

The 15th Amendment provides that "the right of citizens to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous conditions of servitude." The most famous case in connection with this amendment had to do with the famous "grandfather clause." Under this prospective voters in certain Southern States had to pass a literacy test or be a lineal descendant of someone who could vote in 1866. This gave the ballot to illiterate whites, but barred the colored race, though it did not do so specifically. The court held the "grandfather clause" a discrimination against voters because of color. The late Chief Justice White, a Confederate veteran, read the opinion of the court.

Texas for years has been experimenting with laws excluding colored people from Democratic primaries. It has tried four separate methods. Two years ago the Supreme Court of the United States voided a Texas law authorizing the Democratic State committee to prevent Negroes from voting in primaries. The law, according to the Supreme Court, constituted the State committee an agent of the Government. Texas tried again. This time it was the Democratic State convention which put through a measure excluding Negroes.

"The State," said the Supreme Court, "though it has guaranteed the liberty to organize political parties, may legislate for their governance when formed and for the method whereby they may nominate candidates, but must do so with full recognition of the right of the party to exist, to define its membership and to adopt such policies as to it shall seem wise."

The Democrats of Texas have a right to define the membership of their party, make a private club out of it. A constitutional way has been found to eliminate Negroes from the only balloting that means anything in the South.

Texas is the only State which has permitted open discrimination. That does not mean that other Southern States permit the Negro to vote in ordinary elections. Butler R. Wilson, leading colored Boston lawyer, who argued the Crawford case here some years ago, told last week of some of the methods that are used. The white race holds the election machinery; literary tests are quite a bit more difficult for Negroes. A Virginia superintendent of the colored high school could never get the three Election Commissioners of his county together to qualify him as a voter. Sometimes there is only one polling place in a county and the white race owns most of the vehicles.

"Colored people don't go to the polls. They know their votes won't be counted, anyway."

LIFE OR VOTE

Decisions rendered by the United States Supreme Court last week were of a tremendous amount of interest to Negroes and their friends throughout the length and breadth of our continent. In fact, thoughtful leaders of the Negro racial group find it extremely difficult to decide whether the Negro will find himself in a sadder plight because of the highest court of our land rendering an opinion that establishes a precedent almost equivalent to disfranchisement as they rule that the Texas Democratic primary may be carried on solely as a white man's affair, making the barring of Negro votes optional with leaders of the party, and, the ordering of new trials for two Alabama Negro youths who had been sentenced to electrocution on the grounds that their constitutional rights had been violated in view of Alabama authorities failing to place the names of qualified Negro citizens in their jury boxes, or vice versa.

The question resolves itself into whether the race is better off with a guarantee of "life, liberty and the pursuit of happiness," or, whether he may be allowed to enjoy his constitutional right of exercising his franchise in an unrestrained manner. The mere life of a human being pales into insignificance as compared to the suffering that any race or class might endure when deprived of the right of having part in the selection of public officials who guide the affairs of city, county, state and nation.

Had our highest court placed the stamp of approval on what appears to be the unjust conviction and sentencing to death of the nine Negro youths by the Alabama authorities such could have been borne by the race with the thought in mind that the youths were martyrs to the cause and with time offering a cure for all ills, consolation might arise if there was that assurance that the right of franchise would be guaranteed to the extent of affording an opportunity to eventually bring about the election of men to public office who would deal fairly with all peoples and administer justice in a fair and impartial manner.

With this latest ruling from the highest tribunal of our nation, which judging from the reports, virtually disfranchises the Negro, he is denied any voice whatsoever in the selection of men for office, that is, should the desire prevail among the political organization to keep him out.

Go to the Republican party, might be the admonition of those who would suggest some way out of the dilemma which confronts the Negro group anent the court's support of the contention of the Texas Democrats. Then the question arises, what if the Republicans should decide to raise the bar to the Negro. The precedent established by the decision of the Supreme Court would only make the "Grand Old Party" more determined to enforce what is considered now an altogether too evident leaning toward the unfair attitude of lily-whiteism.

Verily it does seem that the Negro racial group is in the middle of another bad fix and it may require another decision by our nation's highest court to remedy the situation.

Cleveland, Tenn. Banner
November 14, 1935

NEGROES AWARDED TOTAL OF $13,800

Will and Anna Lane Sued United States on War Risk Insurance; Son Disappeared in '21

Will Lane and wife, Anna Lane, colored, this city, today were awarded a total of $13,800 by a jury in U. S. District Court at Chattanooga in a suit against the United States for war risk insurance held by their alleged dead son, Charles F. Lane, who was discharged from the army on Feb. 12, 1919, for mental deficiencies and disappeared from here in August, 1921, and has since not been heard from and is believed to be dead.

Lane and his wife brought the suit through their attorney, John S. Wrinkle, Chattanooga, as beneficiaries under the War Risk Insurance policy, and Anna Lane, as administrator, also sued for compensation covering the period from August, 1928, to the present, a period of about 87 months at the rate of $57.50 a month. As beneficiaries Lane and his wife were awarded about $8,800 on the war risk insurance policy. The jury awarded them for a total of 240 months at the rate of $57.50 a month.

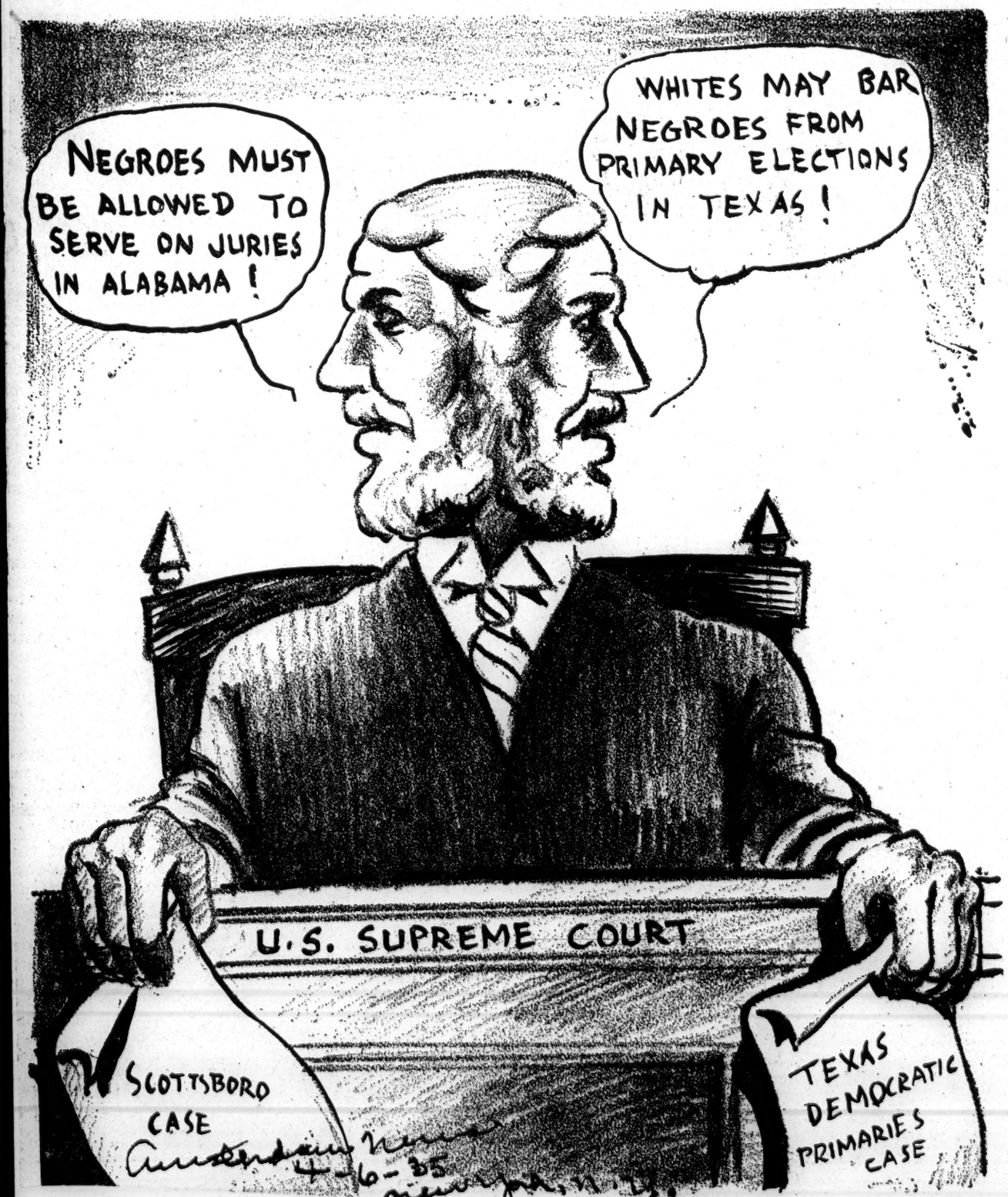
Lane and his wife reside near the old coal chute in East Cleveland. Lane is a cripple and formerly was a tenant farmer of T. A. Marler at Georgetown. John Marer, and Sim Eldredge, Squire John Bowman and E. L. Gibson were witnesses for the Lanes. Dr. T. E. P. Chambers and C. T. Speck were also called as witnesses in the case. The hearing started Tuesday and consumed two days, the jury returning the verdict for the plantiffs this morning.

the jury returning the verdict for the plantiffs this morning.

Court Decisions Affecting the Negro - 1935

One Body, Two Mouths

By CHASE


NEGROES MUST BE ALLOWED TO SERVE ON JURIES IN ALABAMA!
WHITES MAY BAR NEGROES FROM PRIMARY ELECTIONS IN TEXAS!
U.S. SUPREME COURT
SCOTTSBORO CASE
TEXAS DEMOCRATIC PRIMARIES CASE

Scottsboro and Texas

THE LEGAL MIND, we are forced to observe, is a queer and involved mechanism, and is often beyond the understanding of laymen who reach their conclusions by weighing human values and foibles. Certainly the striking contrast between the decisions of the United States Supreme Court on Monday in the Scottsboro case and in the Texas primary case gives us some basis for our observation.

In the case of Clarence Norris, one of the Scottsboro boys, eight members of the tribunal rule that exclusion of Negroes from petit jury service in Jackson county, Ala., because of race was a clear denial of the right of equal protection of the law, which is provided in the Fourteenth amendment to the national constitution.

Citing the case of Carter vs. Texas, in which exclusion from grand juries was the point in question, the court quoted this former decision:

> Whenever by any action of a state, whether through its legislature, through its courts, or its executive or administrative officers, all persons of the African race are excluded, solely because of their race or color, from serving as grand jurors in the criminal prosecution of a person of the African race, the equal protection of the laws is denied to him, contrary to the Fourteenth amendment.

Continuing, the court held that the principle is equally applicable to a similar exclusion of Negroes from service in petit juries. The justices maintained that Alabama had not only violated the United States Constitution, but also had evaded its own jury law in barring Negroes who qualified under the state statute. Going further, they asserted in no uncertain language that forgery had been resorted to in order to attempt to prove that Negroes were placed on the jury roll in Jackson county.

As a result of these conclusions, Norris is entitled to a new trial or the quashing of the indictment. The verdict against Heywood Patterson, another Scottsboro boy, was set aside, also, although the court did not order a new trial because of a technicality.

This instance of complete fairness on the part of the Supreme Court is good news and will be hailed with joy by every humantarian. It establishes one precedent under which race prejudice may be deterred from condemning men to death.

Almost in the same breath the learned judges ruled that the Democratic party in Texas is within its rights in limiting the primary vote to white citizens. In the case of R. R. Grovey, who challenged the legality of his denial of a primary ballot, the court held that:

> The argument is that as a Negro may not be denied a ballot at a general election on account of his race, or color, exclusion from the primary renders his vote at the general election insignificant and useless, the result is to deny him the suffrage altogether. So to say is to confuse the privilege of membership in a party to vote for one who is to hold public office.
>
> "...the party is not a state body, but a national organization whose representative is the Democratic National Convention...we find no ground for holding that the respondent (the Harris county clerk) has in obedience to the mandate of the law of Texas discriminated against the petitioner or denied him any right guaranteed by the Fourteenth and Fifteenth amendments.

Legal minds, as we said before, are puzzles to laymen who think in terms of humanity and justice. Therefore, we are forced to deplore and condemn the Grovey case decision. Cannot the Democratic party or the Republican party act similarly in New York or Illinois if it so desires? Will it not be possible to limit the primary vote of the major parties in Arkansas to non-Catholics, Gentiles or owners of real estate? We confess that we cannot understand the minds of our learned justices.

MIDDLETOWN, N. Y.
TIMES HERALD

APR 2 1935

Negro Rights

Two of the most important documents affecting the rights of Negroes since President Lincoln's emancipation proclamation were contained today in Supreme Court decisions. The court upheld the right of Negroes to serve on juries, but held valid the Texas law, prohibiting participation in Democratic primary elections.

The latter decision placed a drastic restriction on the effective exercise of franchise by Negroes. It was the right of franchise which the emancipation proclamation guaranteed nearly three-quarters of a century ago.

In setting aside the conviction and death sentences of two Negroes in the Scottsboro cases the court ruled the indictments on which they were tried were invalid because Negroes had been systematically barred from jury rolls in Jackson County, Alabama.

Chief Justice Charles Evans Hughes read the opinion which castigated the mode of trial and sustained the contention that the Negro race had been barred from jury service. It was unanimous except for Justice McReynolds, who took no part in the case.

The decision went much farther than previous decisions because the state law itself does not discriminate against the race. The discrimination, the court found, was at the hands of local officers.

The Texas decision barring Negroes from participating in Democratic primaries appeared to have given southern states a means of legally disfranchising the race—since the Democratic nominees almost invariably are elected.

Several years ago the court set aside state constitutional provisions barring Negroes from the primaries. The state responded with legislation giving the Democratic State Committee the right to establish the qualifications of voters in the party.

The statute, together with the committee's ruling that party voters must be white, also was held invalid. The question then came before the state party convention, where it was voted to bar Negroes from the party.

This method the Supreme Court held valid in a case brought on appeal from the Texas courts by R. R. Grovey, forty-four-year-old Harris County Negro, who was refused a ballot in the July, 1934, primary.

The Supreme Court decision said "we hold the party was a voluntary association and was competent to decide its membership." The court held that the state could not deny a Negro the right to vote in a general election because of his race.

AUSTIN, TEX.
AMERICAN

APR 3 1935

Two Important Rulings by Supreme Court of U.S.

Texas democrats bar negroes from their state primaries. Now the supreme court of the United States has ruled that the action of the state democratic convention was constitutional and the colored brother has no recourse. Of course, in the bygone years the colored brother was dragged to the polling places of the major and minor cities when the fate of large bond issues were at stake. He was permitted to cast a ballot to levy high taxes on self and his white brother and thus was given recognition, but he cannot vote or cast a ballot in a democratic primary even if he had the right in other years to vote for bond issues with the sky as the limit (regardless of color or previous condition of servitude.)

Chief Justice Charles Evans Hughes announced another important ruling. In the famous Scottsboro cases carried to the court of last resort from Alabama a new trial was granted for the reason (the chief justice said) the constitutional right of two negroes was violated because negroes were excluded from jury service at the trial. Away down in Texas negroes cannot be barred from jury service but they may be barred from the primary ballot box if their white brother objects to "their immediate presence."